

I 2003-2004 FUNDING FOR SPECIALIZED BOOKS, MATERIALS AND EQUIPMENT FOR LOW INCIDENCE STUDENTS

Summary of Legal Requirements

California Education Code Section (EC §) 56836.22 provides for funds to purchase specialized books, materials, and equipment as required under the individualized education program (IEP) for each pupil with low incidence disabilities as defined in § 56026.5 ("hearing impairments, vision impairments, severe orthopedic impairments, or any combination thereof").

Funding is determined by dividing the total number of pupils in California with low incidence disabilities, as reported in the December 1, 2002 unduplicated pupil count, in the following categories: hard of hearing, deaf, visually impaired, orthopedically impaired, and deaf-blind of the prior fiscal year (**30,524**), into the annual appropriation provided for this purpose in the Budget Act + including a 0% COLA (**\$11,042,000**), resulting in a per pupil entitlement of (**\$361.75 per pupil**). The Budget Act for fiscal year 2003-2004 allows this funding to be used only "for purchase, repair and inventory maintenance" for equipment, materials and specialized books used by students with low incidence disabilities.

As a condition of receiving these funds, "the responsible local agency shall ensure that the appropriate books, materials, and equipment are purchased, the use of the equipment is coordinated as necessary, and that the books, materials, and equipment are reassigned to local education agencies within the special education local plan area once the agency that originally received the books, materials, and equipment no longer needs them."

It is also the "intent of the Legislature that local plan areas share unused low incidence books, materials, and equipment with neighboring special education local plan areas." If the equipment, materials or specialized books are no longer needed within the Special Education Local Plan Area (SELPA) or a neighboring SELPA, the California Department of Education (CDE) Low Incidence Program Consultant shall be contacted to reassign the resources elsewhere within California. Items purchased with these funds may only be used by students with low incidence disabilities, unless a waiver has been approved by the State Board of Education.

Existing law (EC § 56822) provides that "sound recordings, large print, and Braille books purchased, instructional materials transcribed from regular print into special media, and special supplies and equipment purchased for individuals with exceptional needs for which state or federal funds were allowed, are property of the state, and shall be available for use by individuals with exceptional needs throughout the state as the board shall provide."

EC § 56320(g) requires that:

"The assessment of a pupil, including the assessment of a pupil with a suspected low incidence disability, shall be conducted by persons knowledgeable of that disability. Special attention shall be given to the unique educational needs, including, but not limited to, skills and the need for specialized services, materials, and equipment consistent with guidelines established pursuant to § 56136." (See also § 44265.5 cited on page 5.)

EC § 56327(h) states, "The personnel who assess the pupil shall prepare a written report, or reports, as appropriate, of the results of each assessment. The report shall include, but not be limited to, all of the following:

"The need for specialized services, materials, and equipment for pupils with low incidence disabilities consistent with guidelines established pursuant to § 56136."

EC § 56345(b)(5) states, "When appropriate, the individualized educational program shall also include....:

For pupils with low incidence disabilities, specialized services, materials, and equipment, consistent with guidelines established pursuant to § 56136."

§ 56136 of the EC requires the Superintendent of Public Instruction to "develop guidelines for each low incidence disability area and provide technical assistance to parents, teachers, and administrators regarding the implementation of the guidelines."

EC § 56201 states, "As a part of the local plan submitted pursuant to § 56200, each special education local plan area shall describe how specialized equipment and services will be distributed within the local plan area in a manner that minimizes the necessity to serve pupils in isolated sites and maximizes the opportunities to serve pupils in the least restrictive environment."

The Individuals with Disabilities Education Act (IDEA) now requires that the IEP team shall "consider whether the child requires assistive technology devices and services" for all students with disabilities. New IEP requirements also include the need, as appropriate, for "...Braille" for students who are "blind or visually impaired", and "language and communication needs..." "for students who are "deaf or hard of hearing. The CDE web site contains a memorandum regarding assistive technology, and details on these, and other of the changes in federal and state requirements resulting from reauthorization of IDEA, AB 602, and other legislation.

Since the use of these funds is limited to books, materials, and equipment, for students with low incidence disabilities, the purchase must relate to the unique educational needs resulting from the low incidence disability as indicated in the IEP of eligible students. For example, regular textbooks and workbooks would not qualify in contrast to low vision aids, digital media, large print or Braille books for students who are visually impaired. Bolsters and mats for young children should be a part of basic equipment and would not qualify, while specialized adapted feeding and self-care equipment, needed by children because of their severe orthopedic impairments, would qualify. It is therefore important that specialized teachers who are credentialed to serve students with specific low incidence disabilities be involved in the team assessment process and be at IEP meetings. That will assure that books, materials and equipment considered for purchase for low incidence students are related directly to the unique educational needs resulting from a low incidence disability.

It is permissible to "pool" funds to be used by one or more students with low incidence disabilities, and there is no legal limitation on the amount of funding for any particular student.

Since there may not be adequate funding in FY 2003-2004 for all students, responsible local agencies should establish a priority for the allocating of these funds, using procedures outlined in the SELPAs local plan for special education.

These funds may not be used for staff development. Therefore, it is suggested that technical support and training be included when equipment is purchased. SELPAs are encouraged to

collaboratively develop regionalized multi-agency funded centers that can provide ongoing technical support, training and address other activities and assure funds are used in the most cost-effective manner.

These funds may not be used to purchase medical therapy units for California Children's Services. LEAs shall provide necessary space and equipment for the provision of occupational therapy and physical therapy in the most efficient and effective manner.

These funds may not be used to purchase medical equipment needed for providing specialized health needs since California Code of Regulations (CCR), Title 5, § 3051.12(b)(3)(C), states that "the school district shall not be required to purchase medical equipment for an individual student."

These funds may not be used to construct or alter facilities (for example, building ramps), or to acquire storage units.

Books, materials and equipment for low incidence students may be used by students with low incidence disabilities enrolled by the public school in non-public and private schools, or in the student's home, when required under the IEP, pursuant to SELPA local plan policies and procedures. Reasonable care must be provided, however, to prevent damage, loss or theft.

Funds are to be used only to supplement, and not to supplant other available funding for books, materials and equipment provided through the base program for general education and/or special education students. (e.g., basic computers or other basic technology should not be purchased with low incidence funds unless it can clearly be determined to fulfill a specialized function, format or adaptation directly related to the low incidence disability). General education and other special education funding should be used for purchasing these basic items. Funds are not to be used to supplant books, equipment and materials that have been provided by other agencies.

Please note that purchasing specialized equipment and materials for infants with low incidence disabilities is also an allowable expenditure for Part C (formerly part H) funds.

Since use of these funds is limited, "for purchase, repair and inventory maintenance" for equipment, materials and specialized books used by students with low incidence disabilities, any "coordinating" activity necessary to allow for the tracking of books, materials and equipment for students with low incidence disabilities must come from low incidence funds for specialized services.

The Low Incidence Program Consultant and the Clearinghouse for Specialized Media and Technology (CSMT) can assist and advise SELPAs or local education agencies (LEA) in reassigning surplus materials and equipment statewide or disposing of unusable surplus items. If you have any questions or need assistance in this area, please contact:

Dennis Kelleher, Ed.D, Consultant
Special Education Low Incidence Programs
California Department of Education
1430 N Street, Suite 2401, Sacramento, California 95814
VOICE (916) 327-0842
TTY (916) 445-4556
FAX (916) 327-1706
E-Mail: dkellehe@cde.ca.gov

Rod Brawley, Consultant, CSMT
California Department of Education
1430 N Street, Third Floor, Sacramento, California 95814
VOICE/TTY: (916) 445-5103
FAX: (916) 323-9732
E-Mail: rbrawley@cde.ca.gov

Guidelines for each low incidence disability, published by the CDE, provide additional information pursuant to EC § 56345(b)(5) that should be helpful in providing specialized books, materials and equipment. Copies of the guidelines may be ordered from:

Publication Sales, Department of Education
P.O. Box 271, Sacramento, California 95812-0271
Telephone: (916) 445-1260 or (800) 995-4099

If you need technical assistance in serving students with low incidence disabilities, contact:

Assistive Technology	Dennis Kelleher	(916) 327-0842
Deaf-Blind	Dennis Kelleher	(916) 327-0842
Deaf/Hard of Hearing	Nancy Grosz Sager	(916) 327-3868
Regionalization	Nancy Grosz Sager	(916) 327-3868
	Dennis Kelleher	(916) 327-0842
Severe Orthopedic Impairments	Dennis Kelleher	(916) 327-0842
Visual Impairments	Dennis Kelleher	(916) 327-0842

IMPORTANT NOTE: Since funding for the provision of funding for low incidence books, materials and equipment through EC § 56836.22 is State funds, unused portions of this money may be carried over. State funds for low incidence books, materials and equipment may not be commingled with Federal funds allocated for providing specialized services to students with low incidence disabilities.

II FUNDING FOR SPECIALIZED SERVICES FOR STUDENTS WITH LOW INCIDENCE DISABILITIES

Summary of Legal Requirements

The Budget Act for FY 2003-2004 appropriates \$1,700,000, which shall be used to provide specialized services to pupils with low incidence disabilities, as defined in § 56026.5 ("hearing impairments, vision impairments, severe orthopedic impairments, or any combination thereof.")

EC § 56320(g) requires that:

The assessment of a pupil, including the assessment of a pupil with a suspected low incidence disability, shall be conducted by persons knowledgeable of that disability. Special attention shall be given to the unique educational needs, including, but no limited to, skills and the need for specialized services, materials and equipment consistent with guidelines established pursuant to § 56136."

EC § 56327(h) states, "The personnel who assess the pupil shall prepare a written report, or reports, as appropriate, of the results of each assessment. The report shall include, but not be limited to, all the following:

The need of specialized services, materials and equipment for pupils with low incidence disabilities consistent with guidelines established pursuant to § 56136."

EC § 56345(b)(5) states, "When appropriate, the individualized education program shall also include...."

For pupils with low incidence disabilities, specialized services, materials and equipment, consistent with guidelines established pursuant to § 56136."

EC § 56136 requires the Superintendent of Public Instruction to "develop guidelines for each low incidence disability area, and provide technical assistance to parents, teachers, and administrators regarding the implementation of the guidelines. The guidelines shall clarify the identification, assessment, planning of, and the provision of specialized services to pupils with low incidence disabilities."

EC § 44265.5 outlines credential requirements for specialized teachers serving students with low incidence disabilities:

- (a) Pupils who are visually impaired, as defined in § 56350, shall be taught by teachers whose professional preparation and credential authorization are specific to that disabling condition.
- (b) Pupils who are deaf or hard of hearing shall be taught by teachers whose professional preparation and credential authorization are specific to that disabling condition.
- (c) Pupils who are orthopedically disabled shall be taught by teachers whose professional preparation and credential authorization are specific to that disabling condition.

EC § 56363(b)(16) states the Designated Instruction and Services (DIS) "may include but not be limited to:

Specialized services for low incidence disabilities, such as readers, transcribers, and vision and hearing services."

These services are further defined in CCR, Title 5, § 3051.16:
"Specialized Services for low incidence disabilities may include:

- (b) Specialized services related to the unique needs of pupils with low incidence disabilities provided by qualified individuals such as interpreters, notetakers, readers, transcribers, and other individuals who provide specialized materials and equipment."

EC § 56201 states, "As a part of the local plan submitted pursuant to § 56200, each special education local plan area shall describe how specialized equipment and services will be distributed within the local plan area in a manner that minimizes the necessity to serve pupils in isolated areas and maximizes the opportunities to serve pupils in the least restrictive environments."

IDEA now requires that the IEP team, "consider whether the child requires assistive technology devices and services" for all students with disabilities, as well as other requirements. The CDE's web site contains a memorandum regarding assistive technology, and details on these, and other of the changes in federal and state requirements resulting from reauthorization of IDEA, AB 602, and other legislation.

GUIDELINES - Specialized Services

- **Eligibility**

Funds may be used for all pupils with low incidence disabilities (ages 0-21) as defined in law, even though they may have been counted in another category in the pupil count. For example, a pupil who is deaf and also developmentally delayed would still be eligible even if the pupil was reported in the latter category or as multihandicapped. Also, some pupils counted as orthopedically handicapped may not be eligible because they are not "severely orthopedically handicapped" as per the definition in EC § 56026.5. Pupils with severe orthopedic impairments require highly specialized services, materials and equipment per EC § 56000.5(b). Generally, a student with severe orthopedic impairment would have a medical diagnosis including significant gross motor, range of motion deficiencies.

- **Responsibility**

The SELPA has responsibility for the use of these funds, including accountability of how the funds are used. It is the responsibility of LEAs within the SELPA to cooperate with the SELPA by providing the information needed for the proper administration of the funds.

- **Allocation of Funds**

SELPAs that serve 25 students or less who have low incidence disabilities will receive base funding of \$2000, plus \$31.78 per student. Such SELPAs are designated as "sparse" and are eligible to apply for additional funding to serve students with low incidence disabilities. SELPAs serving 26 students or more who have low incidence disabilities will receive base funding of \$5000, plus \$31.78 per pupil. The per-pupil allocation is computed by taking the budget amount of \$1,700,000, and subtracting 10%, (\$170,000). The \$170,000 is to be used for grants to sparse SELPAs. The remaining \$1,530,000 is divided by the total number of pupils in California with low incidence disabilities, as reported in the December 1, 2002 (30,524) which yields a per pupil entitlement for 2003-2004 of \$31.78.

Sparse SELPAs that serve 25 or fewer students with low incidence disabilities may apply for the additional funds for low incidence specialized services through the attached application. Funds will be provided based on demonstrated need to the extent that funding is available. The funds are not entitlements, and the funding amounts may vary from year to year.

As stated above, the Department will reserve **\$170,000** for low incidence specialized service grants to sparse SELPAs, in order to meet the special needs of the low incidence student population. Approved applications (form is attached) will be funded utilizing the following timeline and process:

- a. Applications, with the required documentation, must be received by the CDE by 4:00 PM **January 15, 2004.**
- b. Between January 16, and January 31, the completed applications will be reviewed by a panel of SELPA/Special Education administrators from non-sparse SELPAs and CDE staff.
- c. By February 15, award letters will be sent to the successful applicants

Following is a list of the SELPAs who are eligible to apply, based on the December, 2002 Low Incidence Pupil Count:

SELPA	PUPIL COUNT
Colusa County	14
Glenn County	17
Inyo County	13
Lake Tahoe-Alpine	22
Lassen County	11
Los Angeles County Juvenile Court Schools	4
Modoc County	5
Mono County	4
Plumas County	19
Trinity County	12

Use of Funds (All SELPAs)

The use of these funds is limited to low incidence specialized support services such as "interpreters, notetakers, readers, transcribers, and other individuals who provide specialized services to students with low incidence disabilities pursuant to EC § 56026.5.

Services funded are limited to direct services to the pupil or pupils with low incidence disabilities, and cannot be used for services to staff, or for any other purpose

Since the use of these funds is limited to "specialized" services, they must relate to the unique educational needs resulting from the pupil's low incidence disability or disabilities. It is important that specialized teachers who are credentialed to serve students with specific low incidence disabilities be involved in the assessment process, as well as in IEP meetings. This will assure that specialized services are directly related to the unique educational needs of the student with the diagnosed low incidence disability or disabilities. Funds should not be used to provide services to meet general education needs provided through the base program.

Funds are to be used to supplement, and not to supplant existing services (i.e., funds are to be used for additional services beyond those funded by a unit or through the base program). Funds may not be used to supplant services that have been provided by another agency.

It is permissible to "pool" funds to be used by one or more pupils with low incidence disabilities. Since there may not be adequate funding to meet the needs of all pupils, SELPAs should establish a priority for the use of these funds.

Please note that purchasing specialized services for infants with low incidence disabilities is also an allowable expenditure for Part C (formerly Part H) funds. Services must relate to a documented need for the services in the IEP/assessment results for each pupil receiving the service, or services. Funds should, therefore, not be used to fund staff development.

Personnel providing services to meet the specialized health care needs related to a student's low incidence disability must meet the requirements of the CCR, Title 5, § 3051.12(b).

Guidelines for each low incidence disability, published by CDE, provide additional information pursuant to EC § 56345(b)(5). These publications will be of assistance in providing specialized services. Prices and ordering information can be obtained from:

Publication Sales, California Department of Education
P.O. Box 271, Sacramento, California 95812-0271
TELEPHONE: (916) 445-1260 or (800) 995-4099

It is recommended that regionalization be used to provide services to students with low incidence disabilities, whenever possible. A report, titled Regionalization for Students with Low Incidence Disabilities, developed pursuant to ACR 55, provides information regarding the effectiveness of using regionalization. For a copy of this document, contact:

Resources in Special Education (RiSE)
Sonoma State University - CIHS
1801 E. Cotati Avenue, Rohnert Park, California 94928
(707) 664-4394, or FAX (707) 664-2417

For assistance in information relating to regionalization, please contact the CDE Low Incidence Program Consultant listed above.

IMPORTANT NOTE: Since funding for the provision of specialized services is through federal discretionary funds, it cannot be carried over or co-mingled with funding for low incidence books, materials and equipment.

FREQUENTLY ASKED QUESTIONS

There are two types of low incidence funding, one for books, materials and equipment and one for specialized services. May the SELPA combine the funds as long as they are spent on low incidence students?

No. There are two distinct low incidence funding sources, one for books, materials and equipment which is state money allocated under EC § 56836.22 the other for specialized services that is Federal money which is passed through to LEA annually as part of the state budget act. These funds must be spent for the specific, established purpose only and may not be commingled.

Is the SELPA permitted to carry over Low Incidence Fund from one fiscal year to the next?

The state low incidence funds allocated for books, materials and equipment under EC § 56836.22 may be carried over. The Federal funds for specialized services that are passed through to the LEA/SELPA through the budget act must be entirely spent during the fiscal year in which they are allocated or else they may be recaptured by the CDE.

May Low Incidence funding be used for only one of the low incidence disability student groups even though all Low Incidence disability students generate income?

Yes. Although the allocation is generated on a per student basis and must be expended on only students who have a Low Incidence disability, there is nothing that requires that income be spent proportionally on each various student disability group consistent with the funds generated. It is a local decision of the LEA or SELPA regarding how the available low incidence funds are spent as long as revenue for equipment, books and materials isn't commingled with specialized services funds.

Is a SELPA or LEA required to use Low Incidence Funding to purchase prescription devices?

The California State Board of Education has adopted CCR, Title 5, § 3051.12(b)(3)(c), which states in part that "the school district shall not be required to purchase medical equipment for an individual student." Based on this regulation, the CDE has a long-standing practice to encourage the purchase of prescription devices and medical equipment through other funding sources such as private medical insurance or Medi-Cal.

If a student with a low incidence disability within our SELPA for whom we purchased books, materials and equipment with low incidence funds moves to a different SELPA, are we required to send the books materials and equipment with the student to the new SELPA?

No. EC § 56836.22 (e) states in part that "it is the intent of the legislature that Special Education Local Plan Areas share unused equipment, books and materials with neighboring SELPAs...." If the books, materials and equipment is still needed by other students with low incidence disabilities in your SELPA, there is no requirement to send it with the student. If, however, books, materials and equipment purchased with low incidence funds are unused, SELPAs are encouraged to make arrangements with other SELPAs to share the unused equipment, books and materials. CDE may be contacted

for assistance in locating another SELPA that has need of the unused equipment, books or materials.

Our SELPA has obsolete, unusable books, materials and equipment purchased by low incidence funds. How do we dispose of these things?

Pursuant to EC § 56822 books, materials and equipment purchased with low incidence funds remain the property of the state. When the low incidence books, materials or equipment is no longer usable it must be handled in the same manner that books, materials and equipment purchased by state funds other than low incidence is managed pursuant to EC § 17545-17555 which requires, among other things, that the items which are obsolete or unusable be declared surplus by the Governing Board and that they be auctioned off after the public has been duly notified.

We have students in our SELPA who have visual perception problems. Does this disability qualify as a visual impairment for low incidence funding?

No. EC § 56026.5 states "Low incidence disability" means a severe disabling condition with an expected incidence rate of less than one percent of the total statewide enrollment in kindergarten through grade 12. For purposes of this definition, severe disabling conditions are hearing impairments, vision impairments, and severe orthopedic impairments, or any combination thereof. Vision impairments as defined by EC § 56350 (c) do not include a pupil who is eligible for special education and related services based on a specific learning disability within the function of vision which results in visual perceptual or visual motor dysfunction identified pursuant to § 56338.

We have a student who is both severely emotionally disturbed and blind. Will we receive low incidence funding for this student?

Visual Impairment is one of the severe disabling conditions defined by EC § 56026.5 as a low incidence disability. The language "or any combination thereof" has been interpreted to mean a student is eligible for Low Incidence funding if (s)he has at least one of the three severe disabling condition regardless of any other disabilities that may also be present. Therefore, a student who has multiple disabilities will generate for Low Incidence funding as long as that student has been reported on the CASEMIS pupil count as visually impaired.

**Application for Funding to Provide Specialized Services for SELPAs
Serving Less Than 26 Students with Low Incidence Disabilities 2003-04**

SELPA _____ Contact Person _____
Address _____ Telephone _____

Description of Service Needed	Staff FTE	Cost, Including Benefits	# of Pupils to Be Served	Low Incidence Disability

On a separate attachment, please provide a narrative that describes the need for the services. Along with the narrative, include documentation to support student eligibility as determined by:

Assessment results, that include a statement as to the need for specialized services, pursuant to EC 56320(g), and 56327(h) and IEP documents that confirm the need for the specialized services requested in the application as required in EC 56136. **Submitted documents shall exclude any personally identifiable student information.**

Applications will be ranked on completeness, clarity and documented need. The higher ranked application will receive a higher prorated amount of requested funding.

Pursuant to EC 56201, and in the space provided, please reference the part of your local plan that describes how specialized equipment and services will be distributed within the local plan area that minimizes the necessity to serve pupils in isolated sites, and maximizes the opportunities to serve pupils in the least restrictive environment. Local Plan section _____ page number _____.

If this application is approved, is staff currently available to provide the services? Yes _____ No _____

If no, please include an explanation with your application, including a projected date as to when the staff will be available.

Signing this application certifies that the services being requested will be provided by qualified individuals, such as interpreters, notetakers, readers, transcribers, and other individuals who provide specialized materials and equipment, pursuant to the California Code of Regulations, Title 5, Section 3051.16.

I CERTIFY THAT THE ABOVE INFORMATION IS COMPLETE AND ACCURATE.

SELPA Administrator

Date

To be considered application must be received by California Department of Education not later than 4:00 PM Wednesday January 15, 2003. Send to:

Dennis Kelleher, Ed.D., Consultant
Special Education Low Incidence Program
428 J Street, Room 550
Sacramento, California 95814
(916) 327-0842

**Application for Funding to Provide Specialized Services for SELPAs
Serving Less Than 26 Students with Low Incidence Disabilities 2003-04**

SELPA _____ Contact Person _____
Address _____ Telephone _____

Description of Service Needed	Staff FTE	Cost, Including Benefits	# of Pupils to be Served	Low Incidence Disability
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____

On a separate attachment, please provide a narrative that describes the need for the services. Along with the narrative, include documentation to support student eligibility as determined by:

Assessment results, that include a statement as to the need for specialized services, pursuant to EC 56320(g), and 56327(h) and IEP documents that confirm the need for the specialized services requested in the application as required in EC 56136. **Submitted documents shall exclude any personally identifiable student information.**

Applications will be ranked on completeness, clarity and documented need. The higher ranked application will receive a higher prorated amount of requested funding.

Pursuant to EC 56201, and in the space provided, please reference the part of your local plan that describes how specialized equipment and services will be distributed within the local plan area that minimizes the necessity to serve pupils in isolated sites, and maximizes the opportunities to serve pupils in the least restrictive environment. Local Plan section _____ page number _____.

If this application is approved, is staff currently available to provide the services? Yes _____ No _____

If no, please include an explanation with your application, including a projected date as to when the staff will be available.

Signing this application certifies that the services being requested will be provided by qualified individuals, such as interpreters, notetakers, readers, transcribers, and other individuals who provide specialized materials and equipment, pursuant to the California Code of Regulations, Title 5, Section 3051.16.

I CERTIFY THAT THE ABOVE INFORMATION IS COMPLETE AND ACCURATE.

SELPA Administrator

Date

To be considered, application must be received by California Department of Education not later than 4:00 PM, Wednesday, January 15, 2004. Send to:

Dennis Kelleher, Ed.D., Consultant
Special Education Low Incidence Program
1430 N Street, Suite 2401
Sacramento, California 95814
(916) 327-0842